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In re Application of
Ian L. Brown et al.
Application No. 10/072,942
Filed: February 12, 2002
Attorney Docket No.: 50179-101

ON PETITION

This is a decision on the petition filed September 15, 2004, under 37 CFR 1.181, to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

The application was held abandoned on July 7, 2002, for failure to file a timely reply to the Notice to File Corrected Application Papers, mailed May 6, 2002. A two month period for reply was set. Accordingly, a Notice of Abandonment was mailed on January 16, 2004.

Petitioner asserts that a response was mailed June 28, 2002 and that with it a substitute specification was filed. In support, petitioner has submitted, *inter alia*, a post card receipt, date stamped June 28, 2002 by the USPTO, and cover page used for submitting the response (corrected application papers).

A search of the application file and the USPTO records reveals that a Notice to File Corrected Application Papers was mailed May 6, 2002 and that a document purporting to be the response was filed June 28, 2002. However, our review of the file does not disclose that the actual substitute specification is of record.

It appears, from the proof submitted that petitioner attempted to file the response in a timely manner but until such time as a proper response in the format required in the Notice to File Corrected Application Papers has been filed, the petition cannot be granted and the abandonment withdrawn. As well this matter cannot proceed through the pre-examination phase until such time as the response is filed.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

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